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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,466	03/16/2004	Richard Douglas Bauer	IJ0052USNA	3225

23906 7590 07/08/2005

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EXAMINER

FAISON, VERONICA F

ART UNIT PAPER NUMBER

1755

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/801,466

Applicant(s)

BAUER ET AL.

Examiner

Veronica F. Faison

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3-16-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to ink set, classified in class 106, subclass 31.27.
- II. Claims 9-18, drawn to method of printing, classified in class 347, subclass 98.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and method of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the method for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different method of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different method of printing such as textile printing.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Bart Lerman on 3-30-05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-19 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 148 104.

EP 1 148 104 teaches a polyvinyl alcohol additive may be useful in an ink jet ink printing system which comprises a 5<sup>th</sup> or 6<sup>th</sup> ink pen set (abstract). The reference defines a fluid as either or both the reactant fluid(s) and ink composition(s). The reactant fluid is also known as fixer fluid, which may comprise a colorant (page 2 lines 49-57). The colorant that may be present in the ink composition includes a dye and/or pigment, wherein the pigment is either dispersed with the aid of a dispersant or those that are self-dispersed (page 3 lines 22-24). The fluids which includes both the ink and the fixer fluid may comprise from about 0.1 to about 80 percent of at least one organic solvent (page 3 lines 49-50). The reference discloses that the surfactant (ionizable component) may anionic, nonionic and cationic (page 4 lines 27-39).

EP 1 148 104 fails to specifically exemplify the use of the combination of the first ink being having a nonaqueous vehicle and a fixing fluid comprising a fixing agent in an aqueous vehicle as claimed by applicant. Therefore, it would have been obvious to one of ordinary skill in the art to use the specific the combination of the first ink being having a nonaqueous vehicle and a fixing fluid comprising a fixing agent in an aqueous vehicle as claimed by applicant as EP 1 148 104 also discloses the use of fluids (inks and fixer fluids) that may vary from nonaqueous compositions to aqueous compositions, but the combination of the first ink being having a nonaqueous vehicle and a fixing fluid comprising a fixing agent in an aqueous vehicle is not shown by the examples.

The reference remains silent as to whether differently colored inks are present. However, it is well known in the art that an ink set usually comprises a cyan ink, magenta ink, yellow ink and black ink. Therefore it would have been obvious to one of ordinary skill in the art that the ink set comprises differently colored inks because the reference teaches that a 5<sup>th</sup> or 6<sup>th</sup> pen ink set is used.

### ***Conclusion***

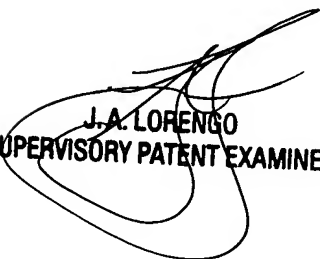
The remaining references listed on forms 892 and 1449 have been reviewed by the Examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Veronica F. Faison whose telephone number is 571-272-1366. The examiner can normally be reached on Monday-Thursday and alternate Fridays 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VFF  
6-20-05

  
J.A. LORENCO  
SUPERVISORY PATENT EXAMINER